

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JEAN-ROBERT CADET

CASE NO. C-1-01-131

Plaintiff

(Judge Herman J. Weber)

VS

MADEIRA CITY SCHOOL DISTRICT  
BOARD OF EDUCATION

**DEFENDANTS' MOTION IN LIMINE TO  
EXCLUDE PLAINTIFF'S EXHIBITS AND  
WITNESSES**

MICHELE W. HUMMEL

CHRIS J. MATE

PAUL W. IMHOFF

Defendants

Now come defendants, Madeira City School District Board of Education, Michele W. Hummel, Chris J. Mate and Paul W. Imhoff, (collectively hereinafter "Madeira"), and move this Court to exclude from introduction at trial of any witness or exhibit concerning allegations of harassment by non-parties or complaints and communications from parents concerning plaintiff's resignation from the school district. Such evidence is irrelevant, has little if any probative value, is likely to

confuse the issues and mislead the jury, and has no application to the claims of plaintiff. This motion is supported by the attached memorandum.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of September, 2003, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ R. Gary Winters  
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vs

MADEIRA CITY SCHOOL DISTRICT  
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MICHELE W. HUMMEL

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Defendants

**DEFENDANTS' MEMORANDUM IN  
SUPPORT OF MOTION IN LIMINE TO  
EXCLUDE PLAINTIFF'S EXHIBITS AND  
WITNESSES**

Rule 403 of the Federal Rules of Civil Procedure provides that evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. In the instant case, proposed witnesses and trial exhibits of plaintiff relating to allegations of harassment suffered by non-parties or complaints and communications of parents concerning the plaintiff's resignation should not be permitted at trial because any probative value of such evidence is substantially outweighed by the danger of confusion of the issues, misleading of the jury or the lack of relevance to the issues presented by plaintiff's claims.

In a hostile work environment claim, statements of stray comments by non-decisionmakers are insufficient to indicate discrimination. Smith v. Leggett Wire Company, 220 F.3d 752, 759-760 (6<sup>th</sup> Cir. 2000). Furthermore, the *prima facie* case of a hostile work environment claim requires an employee to show that he was subject to unwelcome racial harassment. See Parks v. City of Chattanooga, 2003 U.S. App. LEXIS 14471 (6<sup>th</sup> Cir. July 16, 2003). Evidence of allegations of racial harassment suffered by non-parties, such as students, do not bear on whether the plaintiff himself was subject to unwelcome racial harassment.

Moreover, comments by students towards other students are analogous to stray comments made by non-decisionmaking and, as such, are irrelevant and inadmissible. The tests for a hostile work environment claim concern the plaintiff himself and not whether other persons who are not parties to the lawsuit allege unwelcome racial harassment. Accordingly, any evidence put forth by students concerning their own experiences at Madeira have no relevance and will confuse the issues and mislead the jury.

A similar argument merits the exclusion of the testimony of various parents who were concerned about plaintiff's resignation. There is no evidence that any of the parents have admissible evidence concerning the *prima facie* elements of plaintiff's claims or the affirmative defenses of Madeira. These letters and expected testimony simply reflect parents' concerns over what they had heard about the reasons for plaintiff's resignation. Any knowledge of the parents is

based on hearsay evidence and is inadmissible on those grounds. Furthermore, the parents have no evidence to offer to assist the jury in their deliberations on plaintiffs' claims and will lead to the confusion of issues and misleading of the jury if their testimony was permitted into evidence.

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